

RESOLUTION 2013 - 78



**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, ADOPTING
FINDINGS OF FACT SUPPORTING IMPOSITION OF
MORATORIUM IMPLEMENTED BY RESOLUTION 2013-61
PERTAINING TO RECREATIONAL MARIJUANA
PRODUCERS, PROCESSORS AND RETAILERS.**

WHEREAS, the City Council of the City of Sunnyside approved Resolution 2013-61 on August 12, 2013 implementing and imposing a moratorium prohibiting the production, processing and/or retail sales of recreational marijuana within all zoning districts within the City; and upon the filing with the City, or the Courts of Competent Jurisdiction, any applications for licenses, permits or other approvals for the processing, production, and/or retail sale of marijuana; and

WHEREAS, pursuant to Section 3 of such Resolution and RCW 35A.63.220 and RCW 36.70A.390, the City Council must hold and conduct a public hearing on such moratorium and thereafter adopt findings of fact; and

WHEREAS, a public hearing for such purposes was held on September 30, 2013 pursuant to notice duly published wherein two members of the public spoke against the citing of marijuana related businesses in the City and no members of the public spoke in favor of such activity; and

WHEREAS, Resolution 2013-61 contains ten recitals (“Whereas” statements) justifying its decision to enact a moratorium on the production, processing and retail sales of recreational marijuana.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

SECTION 1. Findings of Fact: The Sunnyside City Council hereby adopts the following Findings of Fact to support the continued maintenance of the

moratorium on the production, processing and retail sales of recreational marijuana:

1. On August 12, 2013, the City Council passed Resolution 2013-61, approving six-month moratorium prohibiting the producing, processing and retail sales of recreational marijuana ending the adoption of rules and zoning regulations within the City.
2. On September 30, 2013, the City Council conducted a duly noticed public hearing on Resolution 2013-61. Don Day, City Manager; Patrick Galloway, City Attorney; and Jamey Ayling, Planner presented the staff report.
3. The staff presentation and public comment during the public hearing identified negative secondary land use effects associated with activities related to the production, processing and retail sales of recreational marijuana. These include, but are not limited to: negatively affecting City's economic viability; increased risk that surrounding homes or businesses may be negatively affected.
4. Issues to consider with regard to zoning are whether the City can prohibit recreational marijuana related businesses as uses in certain zones, allow them in only one zone, allow them in all zones, and/or require that the uses be separated from other sensitive uses such as churches, school and the like. The moratorium maintains the status quo and so the production, processing and/or retail sales of recreational marijuana are not allowed during the period of the moratorium.
5. The legality of recreational marijuana producing, processing, and retail sales under the Federal Controlled Substance Act, and the extent to which cities can regulate this activity beyond the rules adopted by the Washington Liquor Control board are still open questions, the answers to which are likely to evolve over the upcoming months. State legislative action is anticipated that will consolidate laws relating to medical and recreational marijuana. The City Attorney's Office and other staff members will have opportunities to work with other jurisdictions and stake holders to receive training and learn from the experiences of others, which will benefit the City in making determinations regarding its zoning policy.
6. The City Council hereby affirms, and adopts as part of its findings of fact, all of the recitals set forth in Resolution 2013-61 as if set forth in full herein.

SECTION 2. Continuation of Moratorium. The moratorium adopted, imposed and implemented pursuant to Resolution 2013-61 shall remain in effect in accordance with the terms of such Resolution and shall be extended for an

additional six months (termination date of August 11, 2014) to complete a work plan and implementation of appropriate regulations. In the event zoning regulations are implemented, this moratorium shall automatically terminate.

SECTION 3. Adoption of Work Plan. The Work Plan, attached hereto as Exhibit "A", is hereby adopted.

SECTION 4. Effective Date. This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law. Resolution 2013-61 shall continue to remain in full force and effect.

PASSED this 14th day of October, 2013.



JAMES A. RESTUCCI, MAYOR

ATTEST:



DELILAH SAENZ, CMC, CITY CLERK

APPROVED AS TO FORM:



KERR LAW GROUP, LLP
Attorneys for the City of Sunnyside

EXHIBIT "A"

October 2013 Recreational Marijuana Proposed Work Plan

The following steps are intended to identify the expected process of creating legislation unique to the City of Sunnyside's needs and legislative priorities.

1. Research cities/states with similar circumstances/laws pertaining to recreational marijuana.
2. Research Washington Cities Insurance Association, Association of Washington Cities and the Municipal Research and Service Center to determine latest developments, cautions, examples and experiences in regulation of medicinal marijuana.
3. Research current State law and reconcile the discrepancy of federal laws concerning processing, producing and retail sales of recreational marijuana, the question of precedence of State versus Federal law and the implications of risk of prosecution of City personnel implementing State law.
4. Involve City Departments to determine the extent and degree of intervention needed from a licensing, taxation, code enforcement, crime prevention, public safety (police and fire protection) and zoning standpoint and other applicable concerns.
5. Research the degree of consistency for regulation desired/needed from Yakima County.
6. Evaluate the impact of voter approved initiatives after the November general election as applicable.
7. Evaluate the expected timeframe of developing local regulation against any State legislative movement. Consider extension of the moratorium as needed.
8. Develop draft legislative alternatives for regulating collective recreational marijuana gardens.
9. Review with City management and revise as directed.
10. Conduct public workshops with the Planning Commission and revise draft regulatory alternatives as needed. (Will discuss at each meeting until a draft is complete.)

EXHIBIT "A"

11. Review developing State legislative amendments to State law concerning collective medical marijuana gardens.
12. Conduct formal public hearing(s) with the Planning Commission to determine the Commission's recommendation to City Council. Tentatively scheduled for January 2014 regular meeting.
13. Present the recommended legislation to City Council at a Council Workshop. Tentatively scheduled for February 2014 Workshop meeting.
14. Return to Council for formal action as directed. Tentatively scheduled for March 2014 Regular meeting
15. Adjust work plan as necessary to accommodate State legislative changes.